

## Message Text

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DRAFTED BY L/SCA:HRGAITHER:EDD

APPROVED BY L/M:KEMALMBORG

ARA/BC/C - MR. ISAACS (SUBS)

JUSTICE - MR. MURPHY (INFO)

----- 122560

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FM SECSTATE WASHDC

TO AMEMBASSY SANTIAGO

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E.O. 11652: N/A

TAGS: PFOR, CI

SUBJECT: EXTRADITION TREATY NEGOTIATIONS

REF: SANTIAGO 859

1. RE QUESTIONS RAISED PARAGRAPH 4 REFTTEL, EMBASSY MAY  
DRAW UPON FOLLOWING:

A) CHILE NOT BEING SINGLED OUT FOR NEGOTIATION OF  
TREATY. U.S. IN 1970-72 PERIOD NEGOTIATED TREATIES WITH  
ARGENTINA, URUGUAY, PARAGUAY AND GUATEMALA. FIRST THREE  
SIGNED AND RATIFIED; GUATEMALA IN FINAL STAGES. CONSUL-  
TATIONS WITH MEXICO (RELATIVELY NEW TREATY) RESULTED IN  
DECISION THAT RENEGOTIATION PRESENTLY UNNECESSARY. IN  
1970 BOTH DEPARTMENT AND CHILEAN EMBASSY DISCUSSED NEGOTI-  
ATION OF TREATY AND WAS GENERAL AGREEMENT THAT NEED  
EXISTED. IF CHILE ABLE NEGOTIATE IN TIME FRAME PROPOSED,  
OTHER L.A. NEGOTIATIONS WOULD BE CONDUCTED ON SAME TOUR-  
UPDATING OF EXTRADITION TREATIES HAS BEEN ONGOING EFFORT  
OF DEPARTMENT AND TO DATE NEGOTIATIONS HAVE BEEN HELD WITH  
NEW ZEALAND, AUSTRALIA, ITALY, U.K., IRELAND, CANADA,  
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FRANCE, SPAIN, NETHERLANDS, FRG, AND DENMARK. MOST NEGO-

TIATIONS HAVE RESULTED IN SIGNED AGREEMENTS. REMAINDER IN FINAL STAGES.

B) RE SINGLE CONVENTION ON NARCOTIC DRUGS, IT IS TRUE THAT NARCOTICS WOULD BE COVERED; HOWEVER, NEW TREATY IS BROADER AND WOULD BE PREFERABLE.

C) WHY NEGOTIATE NEW TREATY? COMPARISON OF 1970 DRAFT AND/OR U.S./ARGENTINE TREATY WITH PRESENT TREATY (1900) WILL DEMONSTRATE NUMEROUS REASONS SUCH AS:

(1) CONSPIRACY TO COMMIT LISTED OFFENSES, HIJACKING AND TERRORISM NOT COVERED, NOT TO MENTION NUMEROUS OTHERS WHICH HAVE POTENTIAL IMPORTANCE.

(2) PRESENT TREATY, DUE TO SUPREME COURT DECISION, PRECLUDES U.S. FROM SURRENDERING U.S. CITIZENS. WE WISH HAVE OPTION AND POLICY IS TO EXTRADITE.

(3) UNDER PRESENT TREATY, USG DOES NOT REPRESENT GOC, WHICH WOULD HAVE TO HIRE PRIVATE ATTORNEYS TO PRESENT CASE. DOUBT THIS PROCEDURE IS EQUITABLE IN LIGHT CHILEAN PRACTICE.

(4) JURISDICTION LIMITED TO TERRITORY OF CONTRACTING PARTY -- WE WISH EXPAND FOR CERTAIN OFFENSES.

(5) OLD TREATY NEEDS GENERAL UPDATING, PARTICULARLY PROCEDURAL ASPECTS.

2. APPRECIATE GOC STAFFING PROBLEMS; HOWEVER, DEPARTMENT'S EXPERIENCE HAS DEMONSTRATED THAT BEST METHOD TO CAUSE GOVERNMENTS TO FOCUS ON NEGOTIATION OF TREATY IS EITHER TO PROPOSE NEGOTIATIONS OR CONSULTATIONS. IF WE FAIL TO DO EITHER, MATTER USUALLY SLIDES UNTIL A CRISIS OCCURS WHEREUPON THERE IS RUSH TO CONCLUDE AN AGREEMENT DUE TO EMBARRASSMENT (POLITICAL) OF NOT HAVING UP-TO-DATE TREATY. STAFFING PROBLEM IS NOT GOING TO IMPROVE ON U.S. SIDE AND PRESUME SAME TO APPLY GOC.

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3. (BEGIN FYI) UNFORTUNATELY, STAFFING IS REAL PROBLEM FOR DEPARTMENT. WHILE WE CAN GUARANTEE ABILITY TO NEGOTIATE PERIOD SUGGESTED, THERE IS SOME QUESTION WHETHER WE WILL BE ABLE TO DO SO AFTERWARDS. AS NOTED PREVIOUSLY, CHILE IS HIGH ON JUSTICE DEPARTMENT'S LIST OF PRIORITIES AND WE WOULD LIKE USE OPPORTUNITY TO CARRY OUT OTHER NEGOTIATIONS AND CONSULTATIONS. BUDGETARY CONSTRAINTS DO NOT PERMIT TRAVEL AT WILL UNFORTUNATELY. (END FYI). INGERSOLL

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